

United States District Court  
For the Northern District of California

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

|  |   |                               |
|--|---|-------------------------------|
| MONTEREY BAY BOATWORKS                     | ) | Case No.: 12-CV-4544-LHK      |
| COMPANY, a California limited partnership, | ) |                               |
|  | ) | ORDER SOLICITING SUPPLEMENTAL |
| Plaintiff,                                 | ) | BRIEFING REGARDING THE        |
| v.   | ) | APPOINTMENT OF A SUBSTITUTE   |
|  | ) | CUSTODIAN                     |
| MICHAEL FORMICO, and M/V WILD WAVE         | ) |                               |
| (Official Number 550855) and her engines,  | ) |                               |
| boiler, tackle, apparel, furnishings, and  | ) |                               |
| appurtenances, etc., <u>in rem</u> ,       | ) |                               |
|  | ) |                               |
| Defendants.                                | ) |                               |

Plaintiff Monterey Bay Boatworks Co. ("Plaintiff") has filed an Application for Appointment of Substitute Custodian and Movement of the Vessel M/V WILD WAVE ("Application for Custodianship"). ECF No. 4. In the Application for Custodianship, Plaintiff requests that the Court authorize Plaintiff to provide custodianship and dry dockage at the Monterey Boatyard at a rate of \$4,000.00 per month, as well as other services including hull cleaning, insurance, and necessary parts and labor at the standard rates prevailing in the port. *Id.* Plaintiff has not, however, provided citation to authority showing that the Court may authorize Plaintiff to take custody of the M/V WILD WAVE and to charge for such services. Moreover, Plaintiff has not informed the Court who Plaintiff contends will be responsible for the costs of Plaintiff's services. For example, Plaintiff has not informed the Court whether the services it

intends to provide would be recoverable from Defendant Michael Formico, through Plaintiff's in rem action, as "necessaries" under 46 U.S.C.A. § 31342.

Accordingly, Plaintiff is ORDERED to file a supplemental brief: (1) providing citation to authority for the proposition that the Court may authorize Plaintiff to take custody of the M/V WILD WAVE and to charge the amounts set forth in Plaintiff's Application for Custodianship; and (2) stating who Plaintiff contends would be responsible for the costs associated with Plaintiff's custodianship of the vessel. Plaintiff's supplemental briefing shall be limited to one page. Plaintiff's supplemental briefing is due September 26, 2012.

**IT IS SO ORDERED.**

Dated: September 19, 2011

  
LUCY H. KOH  
United States District Judge